THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

NOV 16 1992

The Honorable Thomas S. Foley
Speaker of the House of
Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

I am forwarding the final report on the study of the Medicaid Eligibility Quality Control (MEQC) negative case action (NCA) program, as promised in the Department's letter of May 10, 1991. The MEQC program is a two-tiered system of State and Federal monitoring, the purpose of which is to reduce erroneous expenditures in medical assistance payments and errors in terminations and denials. Following Federally-approved sampling plans, State officials select monthly samples during two 6-month sampling periods from lists of individuals and families certified for Medicaid and NCAs. NCAs refer to the denials and terminations of individuals' Medicaid eligibility. Erroneous NCAs adversely affect vulnerable individuals by excluding them from coverage of needed medical services.

This report incorporates the findings of the initial report and the results of the recently completed second study. The findings reflect some weakness in the current MEQC NCA program. Specifically, some groups were omitted from the sampling and the findings did not always indicate the true eligibility status of the case. As a result of these findings, we plan to initiate appropriate administrative revisions to the MEQC system. The revisions will more accurately measure the potential for benefit loss (benefits not received due to erroneous eligibility decisions) and will improve the validity of the Department's findings.

The Department proposes to monitor the States' experience using the revised system for the next 3 years, and to evaluate the results to determine if there is a need for imposing a fiscal penalty system for excess erroneous actions. I recommend that the Congress take no action pending the Department's evaluation of the redesigned system.

Sincerely,

Louis W. Sullivan

Louis W. Sullivan, M.D.

Enclosure

THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

NOV 16 1992

The Honorable Dan Quayle
President of the Senate
Washington, D.C. 20510

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Enclosure

REPORT TO CONGRESS

MEDICAID ELIGIBILITY QUALITY CONTROL NEGATIVE CASE ACTION PROGRAM STUDY

Louis W. Sullivan, M.D.
Secretary of Health and Human Services
1992

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EXECUTIVE SUMMARY

A. PURPOSE OF THE STUDY

Congress, in section 12301 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), responded to States' concerns regarding the validity of data supporting Medicaid Eligibility Quality Control (MEQC) disallowances. Specifically, Congress directed the Department of Health and Human Services (HHS) to conduct a study of MEQC error rate methods to provide reasonable data which would provide the basis for recouping Federal funds spent on providing Medicaid services to ineligible individuals.

The Department's MEQC report to Congress, transmitted on March 30, 1988, concluded that the existing MEQC method of computing error rates was valid. However, the study findings held that the MEQC system should demonstrate a fair and balanced treatment of all errors including incorrect denials and terminations of Medicaid eligibility. These cases are called negative case actions (NCAs). While it is important that Medicaid services are given only to those individuals truly eligible, it is equally important that Medicaid services are not denied to those actually eligible. HHS advised the Congress that it had initiated research in this area and would report its findings.

In addition, Congress was concerned that efforts to provide assistance to the uninsured and to reduce the incidence of infant mortality and low birth weight were being hindered by the Medicaid eligibility process. A particular concern was that States were making the Medicaid application process too difficult for the needy because States feared MEQC disallowances. To specifically address these concerns, the Senate Appropriations Committee in the Fiscal Year 1989 Appropriations Bill for the Department urged funding of a study of the Medicaid eligibility process to determine the reasons for the high rate of denials. HHS responded that the study of NCA would address these concerns.

In October 1989, the Department contracted with Abt Associates to study approaches to redesigning the NCA program. The objective was to develop a method of balancing the treatment of all errors made in Medicaid eligibility determinations. The study identified two inherent weaknesses in the current NCA program (1) some types of cases were not selected for review, and (2) the reviews on selected cases did not always determine the true eligibility status. The study findings indicated that it was possible to balance the treatment of errors by doing better reviews of a wider array of NCA. Also, the study found that it was feasible to establish a method to hold States accountable (fiscally or otherwise) for erroneously denied and terminated cases. HHS reported these findings to the Congress in May 1991 and recommended delaying Congressional action until further

evidence regarding modified sampling and review techniques obtained under realistic operating conditions could be evaluated.

The Department also recognized in its first report to Congress in May 1991 that the study conclusions should be weighed in view of legislative initiatives that require States to use more aggressive outreach actions to ensure access to services. The concerns originally voiced by Congress regarding inappropriately denied or terminated services, particularly to pregnant women and children, were now being addressed by these initiatives. This warranted further consideration of any appropriate changes to be made to the existing NCA program.

The Department initiated further study of its conclusions in order to be better equipped to make recommendations for redesigning the NCA program and its cost implications, and advised Congress it would report again in Spring 1992. This report reflects the Department's findings and recommendations based on the studies.

B. SUMMARY OF CONCLUSIONS

The Department's first study concluded that it is possible to balance the MEQC program by doing better reviews of a wider array of denied and terminated cases. However, the study results were less clear as to which of the review methods examined was the most accurate or appropriate to the objective. In June 1990, HHS instructed Abt Associates to pilot test its research findings in two States. This pilot test did not yield enough information to determine the best approach to restructuring the NCA program.

In addition, the question of the best basis for an accountability system needed further consideration. Since the Medicaid program provides medical services rather than cash payments to eligible individuals, "benefit loss" for those individuals who should have received services is difficult to measure. The first study found that it was feasible to make a reasonable estimate of benefit loss; however, further examination was required to determine whether this amount could be used to obtain a valid payment error rate upon which to base penalties.

HHS subsequently contracted with Sociometrics, Inc. for a second study to answer the following outstanding questions:

- What modifications in the NCA review process would best identify errors for establishing a valid error rate to which States should be held accountable?

- What is the best measurement of benefit loss to individuals who were erroneously denied or terminated from Medicaid?

- How could fiscal penalties be applied to encourage States to ensure Medicaid services are not denied to eligible individuals? What alternative methods of accountability would be used if fiscal penalties were not applied?

Sociometrics, Inc. conducted an expanded pilot test in three States to continue practical application of the modified sampling and review procedures initially tested by Abt Associates. Cases in the pilot tests were reviewed using both the current and modified systems to clearly identify the effect of the modified system. The findings from the pilot tests in California, Montana and West Virginia showed that restructuring the sample to include other case types and better case reviews resulted in higher error rates. The higher error rates are more representative of State errors because they include new errors found through the improved review procedures on current cases and cases never before sampled. The error rates exclude administrative errors that do not affect the eligibility status of the case. (For comparison purposes error rates shown under the "current methodology" also do not include administrative errors.) As States become aware of the errors and implement corrective actions, the higher error rates should be reduced. The following chart illustrates the difference in error rates between the current and modified methodologies under the pilot tests:

ERROR RATES OF PILOT TEST CASES

STATE	CURRENT METHODOLOGY	MODIFIED METHODOLOGY
California	5.38 percent	8.44 percent
Montana	0.00 percent	6.64 percent
West Virginia	4.17 percent	9.72 percent

The pilot tests also showed an increase in administrative costs for conducting reviews using the modified methodology as opposed to the current methodology.

Following the findings of the pilot tests, both Sociometrics, Inc. and Abt Associates agreed that the NCA program would be best redesigned by:

- conducting better case reviews. Modifications to the review process include a more in-depth case review, selecting a broader sample of cases to capture a wider array of the Medicaid population, and eliminating certain administrative errors. These program changes would require an ongoing increase in State resources, and associated implementation costs.

- measuring benefit loss by using a case error rate (the percentage of cases in error in relation to all the sampled cases). The case error rate is the most fundamental and simple outcome measure for the assessment of system performance.

- implementing the redesigned program in three stages: revising State sampling and review procedures; Federal monitoring of States' case error rates; applying a fiscal penalty system, if warranted.

The Department concurs with the contractors' findings and will proceed with redesigning the NCA program without seeking new legislation requiring application of fiscal penalties. This decision is based on the study conclusions and several other considerations:

- Many of the original problems regarding access to services have been corrected through legislative initiatives.

- Ensuring that individuals are not denied medical services to which they are entitled is accomplished most effectively by assuring the accuracy of the agency's decision to deny or terminate Medicaid. A more in-depth review process of NCA cases and sampling that captures a wider array of the Medicaid population should serve this purpose.

- Federal oversight will proceed, with continuous monitoring of the States' error rates under the revised program. States' error rates may initially rise and Federal monitoring will determine the reason for any change in error rates.

- The Department should consider data obtained under the revised system prior to deciding whether a penalty system is warranted.

- Application of fiscal penalties must be weighed against issues such as higher administrative costs, likely legal challenges, strained intergovernmental relations, and further budgetary pressures on States at a time of severe fiscal crises.

- Implementation of the modified negative case review procedure will require each State to invest a minimum of additional resources, e.g. with a sample size of 110 cases reviewed semi-annually States may need to employ one full time reviewer, one-half time data processing or clerical employee with the usual overhead and fringe benefits.

C. RECOMMENDATIONS

- The Department has initiated implementation of the redesign of the NCA program. HHS will provide guidance to the States, collect data based on the revised program and will evaluate the need for a penalty system. Should the findings support application of a penalty system, HHS would propose any needed legislation.

  Therefore, the Department recommends:

  - o delaying Congressional legislative action requiring application of fiscal penalties, and

  - o evaluating 3 years of data obtained under the redesigned program prior to deciding if, and what type of, an accountability system is warranted.

I. INTRODUCTION

A. MEDICAID ELIGIBILITY

As authorized under Title XIX of the Social Security Act, the Federal and State governments finance medical services for the poor under the Medicaid program. States and territories, which design and administer their own Medicaid programs within broad Federal guidelines, are required to pay for medical services for specified categories of individuals, and have the option of extending coverage to other groups. Generally, categorical eligibility is closely tied to actual or potential receipt of cash assistance under the Aid to Families with Dependent Children (AFDC) program and the Supplemental Security Income (SSI) program for the low-income, aged, blind, and disabled. All AFDC recipients and most SSI recipients are mandated as categorically eligible for Medicaid. States also are required to extend Medicaid coverage to other categorically needy groups including non-AFDC poverty level families and certain low-income pregnant women and children. Many States also cover the "medically needy," individuals whose income or resources exceed the standard for cash assistance but who have significant medical expenses.

B. MEDICAID ELIGIBILITY QUALITY CONTROL (MEQC) PROGRAM

The MEQC program is a two-tiered system of State and Federal monitoring, the purpose of which is to reduce erroneous expenditures in medical assistance payments and errors in eligibility terminations and denials. Following Federally-approved sampling plans, State officials select monthly samples during two 6-month sampling periods (April-September and October-March) from active cases and negative case actions (NCA). NCAs are all terminations and denials of Medicaid eligibility.

1. MEQC Active Cases

For active cases, State quality control reviewers determine whether the sampled cases were eligible during all or part of the review month and, if appropriate, whether the amount of liability to be assumed by the beneficiary was correct. Subsamples of active case reviews are subject to re-review by Federal quality control officials.

The State and Federal findings from the sample and subsample reviews are used to calculate an annual payment error rate.

This is the ratio of erroneous payments made on behalf of recipients the total dollar amount of claims paid in the sample. When a State's official error rate exceeds the established 3-percent national performance standard, the State receives notification from the Federal government of the potential disallowance of Federal financial participation (FFP) for erroneous payments in excess of the 3-percent standard. A State may request a waiver of all or part of a disallowance, if the excessive error rate occurred despite the State's good faith effort or was outside of its control. Waivers are granted at the discretion of the HCFA Administrator.

2. MEQC NEGATIVE CASES

In reviewing MEQC negative cases, State quality control staff determine whether the requirements for timely notice were met and whether the reason(s) for denial or termination is correct. The sample frame consists of completed actions taken by the Medicaid State agency to deny or terminate Medicaid eligibility for a given month. For applications, the sample frame consists of the applications in a given month that were officially withdrawn or that the State agency took official action to deny or otherwise dispose of. For terminations, the sample frame consists of termination actions for the month in which they became effective. The sample groups currently exclude terminations resulting from AFDC cash benefits termination and terminations that occur "automatically" at the end of a specified time period, such as for cases eligible for a 12-month extended Medicaid coverage after loss of AFDC cash benefits.

After selecting the negative case sample, the State review the cases to determine the appropriateness of the agency's negative actions. The review encompasses two factors: (1) adherence to timely notice and hearing requirements; and (2) adherence to eligibility requirements, i.e., the correctness of the agency's action to deny or terminate assistance. Satisfaction of both requirements is necessary for the NCA to be correct.

The review of timely notice and hearing is based solely on the information contained in the agency's record, that is, the notice itself. Regulations at 42 CFR 431.206 and 431.211 require both notice to individuals of hearings and mailing of the notice at least 10 days before the agency takes action to terminate Medicaid eligibility. The review

of the notice does not encompass the adequacy of such notice; it assesses only whether the notice was sent within the required timeframe. No field investigation is required.

The form States use to report findings is designed so that terminations that are incorrect only because of the failure to adhere to timely notice and hearing requirements can be distinguished from terminations that are incorrect based on eligibility requirements.

The review of the correctness of the agency's action to deny or terminate assistance is based on the reason given by the agency for its action. The review is based exclusively on documentation available in the case record and does not include verification of the data in the record upon which the action is based. The notice that the agency sends to the applicant or recipient advising him or her of the action should contain the reason for the denial or termination of Medicaid eligibility. The reason for the action is considered correct if it was based on relevant facts and was correctly applied under State policy. If the reason(s) given in the agency record is incorrect, the case is found to be in error. An exception is made when the case record fully supports and documents that the action was justified on the basis of another reason since it is not the intent of the review to cite errors if another reason justifies the States' action.

An example would be a case where the record indicates that the termination was due to excess earned income. The reviewer determined that the State did not allow appropriate disregards to income and when computed properly, the employment income did not affect the eligibility. However, further review of the case record documented that the recipient was no longer under age limitations. Therefore, the case would be considered correct.

States provide the results of NCA reviews to their Federal regional offices semiannually. A narrative report is submitted annually. The negative case error rate is computed by dividing the number of erroneous NCAs (i.e., cases in error) in the sample by the total number of completed NCA reviews. Negative case error rates are not currently used to impose fiscal penalties, but are used in determining incidence and causes of incorrect NCAs and as the basis for corrective actions.

II. STUDY FINDINGS OF THE NCA PROGRAM

A. MODIFICATIONS IN NCA CASE SAMPLING AND REVIEW

1. Sampling Requirements

The current Medicaid NCA sampling requirements capture only one type of case for review. These are cases in which the individual who is denied or terminated is eligible for and receiving Medicaid based on criteria other than receipt of cash assistance. These are referred to as "medical assistance only" (MAO) cases. Most States exclude "spend-down" cases, described below, from the sample. States sample MAO cases where:

(i) applications for Medicaid were denied or otherwise disposed of without approval by the agency or withdrawn by the applicant; or,

(ii) Medicaid eligibility for an individual or family is terminated.

This sampling frame does not represent a true picture of all Medicaid denials and terminations. Several categories of Medicaid cases subject to benefit loss are currently excluded from Medicaid NCA review, most significantly AFDC denials and terminations and "spend-down" cases. The former are reviewed as part of the AFDC quality control system but are not included in the Medicaid NCA reviews to determine if other Medicaid eligibility was available. Cases whose eligibility is automatically terminated at the end of a prescribed time period are also excluded frequently. These cases include recipients with income above the established categorically needy level but who otherwise meet all criteria for categorical eligibility. The individuals in these cases, referred to as spend-down cases, may qualify for Medicaid when they incur medical or remedial care expenses that equal or exceed the amount of excess income over an established medically needy income level.

In addition, the types of cases reviewed depends, in part, on a State's interpretation and implementation of Federal policy; its administrative practices for eligibility determination; and its operational definitions and procedures used to create the sampling frame. Thus, a major gap exists in the current sample frame for purposes of identifying errors in Medicaid denials and terminations.

In order to collect pertinent data from the pilot tests, Abt Associates and Sociometrics, Inc. applied variations of sampling and review methods to four analytical systems. The systems ranged from the current sampling and review requirements to a completely modified sampling and review method. While results of all the systems were compared; only the findings from the system that implemented the completely modified sampling and review procedures are addressed in this report.

Pilot tests were conducted by Abt Associates in Texas and Wisconsin. However, due to insufficient numbers of AFDC and spend-down cases in those two States, the findings were not reliable for those two categories. Therefore, Sociometrics expanded the pilot test to include California, Montana and West Virginia to select an appropriate sample size for the three categories of MAO, AFDC and spend-down. This pilot test revealed that each State had a high NCA error rate in spend-down and AFDC cases. The NCA error rates for all three States for the AFDC and spend-down samples are as follows:

Stratum	California	Montana	West Virginia
Spend-down	9.09 percent	4.41 percent	30.77 percent
AFDC	4.76 percent	12.00 percent	9.52 percent

Although the contractors recommended expanding the types of cases reviewed, they agreed that the currently required sample size is sufficient. The contractors recommended that the sample cases should be equally divided for the selection of all three case categories, i.e., MAO, spend-down and AFDC denials/terminations.

We recommend revising the sample definition to include spend-down cases and AFDC terminations since this pilot study found that these cases are relatively error-prone and, hence, may result in unwarranted benefit loss.

2. **Review Requirements**

The current NCA review requirements consist of two components:

(1) adherence to timely notice and hearing requirements, and

(2) adherence to eligibility requirements.

Under the requirements for timely notice and hearings, States must mail a notice to a recipient at least 10 days prior to the effective date of an action to withhold, suspend or terminate Medicaid. The current review of adherence to timely notice and hearing requirements is based on information contained in the case record. This review is confined to verification of timely notice; it does not address the content or adequacy of the notice.

For the review of the adherence to eligibility requirements, the principal concern is whether the case record supports the reason given to the client (or any other acceptable reasons) for the denial or termination. If it does not, a limited investigation is conducted to substantiate the official basis for the action. If this limited investigation yields sufficient evidence to support the official reason for the negative action, the action is considered correct.

These review requirements have rather weak standards for verification, i.e., record review and limited field investigation. For purposes of the pilot tests, the standards for verification were strengthened by adding more in-depth review of the correctness of the agency's action to deny or terminate eligibility. Under the modified procedure, the verification standards imposed are identical to the standards used to verify Medicaid eligibility in MEQC reviews of active cases. Thus, for NCA reviews, staff generally would be required to verify case record documentation with the Medicaid applicant and/or through collateral contacts such as employers, banks, and other original sources of information.

The review process was also modified to treat errors in notification and hearing requirements as "technical" or administrative errors. While it is important that clients be notified of their rights in a timely manner, errors associated with these requirements are not good indicators of whether the decision to terminate services was incorrect, or whether any benefit loss occurred. While under the existing NCA program, these technical errors are counted in the case error rate, the modified review process would cite these errors for corrective action, but would not count them in computing the State's NCA error rate.

In the pilot tests conducted by Sociometrics, the contractor in California, Montana and West Virginia looked separately at the level of compliance with the timely notification requirements and the correctness of the agency case determinations. Only one State showed a high noncompliance rate in the notification requirements. The State coordinator indicated that steps would be implemented to address this deficiency. The other two States had a high compliance rate.

The contractor also compared MAO case findings under the current program to MAO case findings under the modified review process. Under the modified review method, the States' overall MAO NCA error rate, excluding AFDC and spend-down cases, increased in California and Montana but not in West Virginia. The contractor attributes this increase to the observation that the in-depth reviews revealed more errors than the current review method.

CASE ERROR RATES OF PILOT TEST CASES
(SPEND-DOWN AND AFDC CASES NOT INCLUDED)

State	Current Methodology	New Methodology
California	5.38 percent	8.40 percent
Montana	0.00 percent	3.28 percent
West Virginia	4.17 percent	4.17 percent

These findings suggest that, at least in the pilot States, review procedures requiring more rigorous verification than do current review procedures tend to discover more errors. Also, under the modified review, the risk of not completing a case review is the same as that under the current review. Thus, there is no increased threat of bias due to inability to complete cases in implementing the modified review system.

Finally, the NCA error rate generally increases when modified review procedures are applied and when the spend-down and AFDC cases are included in the sample. The NCA error rate found in this pilot study when all three categories are included for review, and modified procedures are used are reflected below.

NCA ERROR RATES IN PILOT TEST STATES
(SPEND-DOWN AND AFDC CASES INCLUDED)

State	Current Methodology	New Methodology
California	5.38 percent	8.44 percent
Montana	0.00 percent	6.64 percent
West Virginia	4.17 percent	9.72 percent

3. Comparison of Current Program to Redesigned Program

The following chart illustrates a comparison of the current and redesigned negative case action programs.

	CURRENT PROGRAM	MODIFIED PROGRAM
Sample Requirements		
Annual Sample Size	220	220
Cases Included	MAO	MAO AFDC Spend down
Review Requirements		
Notice/Hearing	Case Error	Technical Error
Eligibility	Record Review Limited-Field Investigation	Record Review Full-Field Investigation
Error Rate Measure	Case Error Rate	Case Error Rate

4. Study Conclusions

The findings from the pilot tests indicate that use of the modified sampling and review procedures would produce a more accurate case error rate than under the current program. Under the modified review procedures, more errors are subject to discovery because of the higher standards in verifying case record documentation. Coupled with a wider variety of cases being reviewed, many States may experience an increase in their case error rates. However, by coding errors attributable to not meeting timely notification requirements as technical errors, the case error rate will realistically portray the actual errors being made in denials and terminations. This information will be valuable to States in designing effective corrective actions to reduce their error rates.

B. MEASURING NCA ERRORS

The Medicaid program makes payments to the providers of medical services rendered to eligible individuals. However, when an eligible individual is erroneously denied or terminated from Medicaid, a "benefit loss" in the amount of medical services the person should have received occurs.

The concept of benefit loss is not a part of the current system for measuring negative case action errors. The current system measures a State's case error rate but does not attempt to directly measure financial benefit loss. Therefore, there is no dollar value assigned to the case error rate. The case error rate is simply the percentage of cases found in error in relation to all the reviewed sample cases.

The study explored various methods for measuring benefit loss. For purposes of accountability, the most desirable determination would be in terms of the dollar value of lost medical services, but there are logistical and statistical obstacles to accurately measuring medical services that were never billed to Medicaid or potentially not rendered. Since a direct measurement cannot be done, the study explored various methods of estimating benefit loss in dollars. However, each of the various methods considered creates complications without measurably improving the estimate. The penalty methodology that was explored required the penalty to be paid by the State, but did not provide compensation to the individual. In questioning whether these dollar estimates are better than a case error rate, the study recommended that a case error rate be used because it is the most fundamental and straight forward outcome measure of NCAs in error.

C. ADMINISTRATIVE IMPACT

Quality control reviewers participating in the study were required to report the time required for completion of each component of the review and other activities previously not covered. Our experience indicated that the time estimates varied widely due to the many factors other than the reviewers' productivity, e.g., organizational status of the quality control unit, geographical areas covered, the degree of automation of the State, and characteristics of the Medicaid program.

State staff who participated in the study were highly experienced, dedicated staff that were relieved of all other assignments. As a result the productivity far exceeded the norm or "usual" time for similar tasks. The estimates used in our projections are based on experience from the study and national experience for similar types of tasks.

It should be noted that field investigations are a major component of active case reviews; however, reviewers in the pilot test spent relatively little time on field investigation. The needed verification and documentation was obtained without the necessity of a home visit as contrasted to active case reviews.

STAFFING REQUIREMENTS FOR SAMPLE SIZE OF 220 REVIEWS

Activity	Ongoing State Staffing Requirements
Expand the Sample	0.5 FTE
Modified Reviews	1.0 FTE

State Costs

Ongoing staffing of the modified review procedures will require one full-time reviewer and one half-time clerical person. The usual factors for overhead and fringe benefits require a loading factor of 2.2 based on State experience (i.e., 2.2 times salary costs equal total administrative costs). The actual salary costs will vary depending on State salary standards and other variables. This estimate does not consider start-up costs associated with sample selection programming or training. The estimates are based on State and Federal experience involving active case reviews.

Federal Costs

Federal costs would be dependent on State expenditures; that is, State spending would be matched by the Federal Government according to the existing matching formula.

D. ACCOUNTABILITY SYSTEMS

Since penalties are applied to States with excessive errors in eligibility determinations which result in erroneous payments on behalf of individuals, applying penalties to States with excessive NCA case errors which result in loss of benefits to eligible individuals and families would seem to accomplish a fair and balanced treatment of all errors in the MEQC program. The Department considered several methods by which States could be held financially accountable for high NCA error rates. However, any type of fiscal penalty which may be applied to States, has certain negative considerations.

A primary consideration is whether it is reasonable to apply fiscal penalties when the study results indicate that State error rates initially will increase under the new program. States will be sampling and reviewing new groups of cases, thereby discovering new error types for which there are currently no established corrective actions. If the new program carries an immediate fiscal accountability system, intergovernmental relations will be strained from the outset. States may bring legal challenge against the system and any fiscal penalty system based on estimates of benefit loss may not successfully withstand that challenge.

An additional consideration is that States will experience further budgetary pressures at a time when their budgets are already seriously strained. Given that States will incur higher administrative costs to implement the new program, it does not appear to be prudent to apply a penalty system at this time. In view of all these considerations, delaying possible application of a penalty system seems a reasonable course of action.

The Department recommends that the decision to impose fiscal penalties be postponed. States should be allowed the opportunity to implement the redesigned program and control their NCA error rates through effective corrective actions and good program management. The Department will evaluate data from 3 years of States' program operations to determine if the States are maintaining low error rates. HHS would advise the Congress if the data support the need for a fiscal penalty system to balance the MEQC treatment of all errors, and seek any needed legislative authority.

III. CONCLUSIONS AND RECOMMENDATION

A. Conclusions

The Department believes that the results of the pilot studies support a redesign of the NCA system to incorporate the modified sampling and review procedures. In addition, HHS believes that a case error rate is the most appropriate and defensible error measurement since an assigned dollar value of benefit loss is, at best, an estimate.

Finally, the Department concludes that the decision to apply a fiscal penalty system should be delayed until program results are evaluated. Should this evaluation support application of a penalty system, the Department will advise the Congress, and seek any needed legislative authority.

B. Recommendation

The Department has initiated implementation of the redesign of the NCA program. HHS will collect data based on the revised program and will evaluate the need for a penalty system or any other serious implications that occur. Should these findings support application of a penalty system, HHS would solicit any needed congressional legislative action.

Therefore, the Department recommends:

- delaying Congressional legislative action requiring application of fiscal penalties, and,
- evaluating 3 years of data obtained from use of the redesigned program prior to deciding if, and what type of, an accountability system is warranted.

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